



The
THE FAMILY LAW SECTION
respectfully submits the following position on:

*

HB 4259

*

The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan. To date, the State Bar of Michigan does not have a position on this matter.

The total membership of the Family Law Section is approximately 2,675.

The position was adopted after review and discussion by the Family Law Section's Council. The number of members in the decision-making body is 21. The number who voted in favor to this position was 14. The number who voted opposed to this position was 2.



Report on Public Policy Position

Name of Section:

Family Law Section

Contact Person:

Kent Weichmann

Email:

weichmann@earthlink.net

Bill Number:

HB 4259 (Condino) Children; adoption; second parent adoption; provide for. Amends secs. 24 & 51 of 1939 PA 288 (MCL 710.24 & 710.51).

Date position was adopted:

May 5, 2007

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

14 Voted for position

2 Voted against position

0 Abstained from vote

5 Did not vote

Position:

Support with recommended amendments

Explanation of the position, including any recommended amendments:

HB 4259 is this year's version of the second parent adoption bill. The council supported HB 5399 last year. The Council renews its support for this bill with the following additions: We suggest that 41(4) read "This section does not apply if the petitioner for adoption is married to or has joined in an adoption petition with the parent having legal custody of the child. 710.51(3) should also be amended to keep the children of parents with legal custody from having their child(ren) becoming wards of the court as are the children in step parent adoptions. The last line of 51(3) should read: "If the petitioner for adoption is married to the parent having legal custody of the child, or has joined in an adoption petition with another person under section 24(1) of this chapter, the child shall not be made a ward of the court after termination of the rights of the other parent."

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

<http://legislature.mi.gov/doc.aspx?2007-HB-4259>

TESTIMONY IN SUPPORT OF H.B. 4259

Monica Farris Linkner, J.D.

State Bar of Michigan Family Law Section

May 9, 2007

Members of the Committee,

I am pleased to testify today on behalf of the State Bar of Michigan's Family Law Section in support of this important bill. I am an adoption attorney, and have concentrated my practice exclusively on family-building cases since 1995. I was closely involved in the legislative reform of Michigan's Adoption Code that culminated with the enactment of a 17-bill package of legislation signed in July, 1994, and have testified before legislative committees since then on adoption-related matters. Thus far I have handled almost 500 adoptions.

I. Overriding issue: stable relationships for children.

The overriding issue here must be what is good for, and provides the most stability for, the children. *"Children deserve to know that their relationships with both of their parents are stable and legally recognized."* That is the purpose and intent of HB 4259. It applies to adoptions in a variety of circumstances where two adults are rearing a child together but are not married. The two situations that most often arise are (1) a child being raised by a same-sex couple who may or may not be biologically related to the child, and (2) a child being raised by two relatives, such as an aunt and a grandmother, when the child's own parents are unable to do so. These children need and deserve to have a legal parent-child relationship with *both* adults for many reasons, just as the children of heterosexual couples do, including the "what ifs" that may arise down the road such as the disability or death of one parent or the parents splitting up.

"Children deserve to know that their relationships with both of their parents are stable and legally recognized. This applies to all children, whether their parents are of the same or opposite sex...When 2 adults participate in parenting a child, they and the child deserve the serenity that comes with legal recognition." So said the American Academy of Pediatrics in its 2002 policy statement in support of gay and lesbian parenting and calling for equal access to co-parenting and second-parent adoption rights for gay and lesbian parents.

The reality is that a huge number of children live in what have been called "nontraditional" families – whether those families are headed by single parents, grandparents or other kin, or same-sex couples. We cannot provide for the best interests of our children if we ignore the variety of families they live in. Last year some 37% of children in this country were born out of wedlock, so 4 out of every 10 children start out in "nontraditional families" from the day they are born. About half of all marriages end in divorce, and parents who remarry introduce stepparents, stepsiblings and half-siblings into their children's lives. Many children live in families headed by an aunt and a grandma, or by a same-sex couple, and will continue to do so whether this bill is enacted or not. Too many children have no parents at all, and languish in foster care even though many "nontraditional" families would be happy to

adopt them. The idea of the bill is to make sure these children are on an equal footing, in the eyes of the law, as their peers who live in families headed by married, heterosexual parents.

II. Michigan law already favors two legal parents, even if unmarried.

We already have thousands upon thousands of children in Michigan who have 2 legal parents who are not married to one another. These are children with heterosexual parents who have divorced or were never married. I am certain this bill would be about as controversial as oatmeal if it only expanded the law to apply to situations such as the aunt and the grandmother. Its application to same-sex parents is, of course, what generates controversy.

However, while people are free to adhere to whatever religious beliefs they choose, as a matter of faith, they are not free to impose those beliefs on others. At one time in our history, children born out of wedlock were scorned as “bastards” and were treated as second-class children. Eventually our legal system recognized that those children deserved to have a legal relationship with both of their parents, and were entitled to support and other benefits from *both* of their parents, just like children whose parents were married. It’s a simple matter now for the parents of a child born out of wedlock to sign an Acknowledgment of Parentage either right at the hospital or in any court, which confers the status of legal parent on the father even if he and the mother never marry. In fact, shouldering legal responsibility for one’s child is considered to be so important that parentage can be judicially determined and an order of filiation can be entered even if the parent doesn’t voluntarily assume that responsibility – that’s why we have prosecutors bringing paternity actions, for example.

There is no reason why we as a society should do a 180° turnabout when a child is being raised by two same-sex parents. That child should not have to ask why only one of his parents is a legal parent, and what will become of him if the legal parent dies. No child should be deprived of a legal relationship with two parents if both are willing to commit to rearing him or her. In many states, such as NY, NJ, PA, MA, VT, IL, ND, OR, CA, WA, D.C., and in Canada, the U.K., and Spain, this is a given.

III. Research and Professional Opinion

The prevailing professional opinion is that a parent's sexual orientation has nothing to do with his or her ability to be a good parent. All major research studies, including a 2001 meta-analysis of two decades of studies on the topic, show that the sexual orientation of a parent is irrelevant to the development of a child's mental health and social development and to the quality of a parent-child relationship. (See *(How) Does the Sexual Orientation of Parents Matter?* by Judith Stacey and Tim Biblarz in the *American Sociological Review*, April 2001.)

Research has shown that the adjustment, development and psychological well-being of children is unrelated to parental sexual orientation and that the children of lesbian and gay parents are as likely as those of heterosexual parents to flourish (Patterson, 2004; Perrin, 2002; Stacey & Biblarz, 2001).

A major study released in 2003 found that approximately 60 percent of adoption agencies accept applications from Lesbian and Gay couples, and that nearly 40 percent have

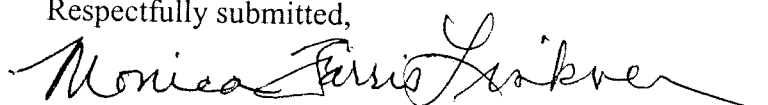
placed children with such adoptive parents. On a broad level, the study also demonstrated how profoundly social attitudes and practices toward gays and lesbians are changing, while the willingness of agencies to accept them as parents means a growing number of children who need homes are moving into permanent families. (*Adoption by Lesbians and Gays: A National Survey of Adoption Agency Policies, Practices and Attitudes*, by David Brodzinsky, Ph.D., for the Evan B. Donaldson Adoption Institute, October, 2003.

The nation's leading child welfare, psychological and children's health organizations have issued policy or position statements declaring that a parent's sexual orientation is irrelevant to his or her ability to raise a child. Many also have condemned discrimination based on sexual orientation in adoption, custody and other parenting situations and called for equal rights for all parents and children. A number of these professional organizations are listed below, along with the year each issued its policy statement(s) on this issue. I have also included the number of members for each group, where available:

<u>GROUP</u>	<u>YEAR</u>	<u>MEMBERS</u>
<u>American Academy of Child and Adolescent Psychiatry</u>	(1999)	75,000
<u>American Academy of Family Physicians</u>	(2002)	80,000
<u>American Academy of Pediatrics</u>	(2002)	57,000
<u>American Bar Association</u>	(1995, 1999 & 2003)	400,000
<u>American Medical Association</u>	(2004)	244,000
<u>American Psychiatric Association</u>	(1997 & 2002)	5,000
<u>American Psychoanalytic Association</u>	(2002)	3,000+
<u>American Psychological Association</u>	(1976 & 2004)	148,000
<u>Child Welfare League of America</u>	(1988)	800 agencies
<u>National Adoption Center</u>	(1998)	
<u>National Association of Social Workers</u>	(2002)	150,000
<u>North American Council on Adoptable Children</u>	(1998)	
<u>TOTAL:</u>	<u>1,162,000 PROFESSIONALS AND 800 AGENCIES</u>	

In closing, I urge your support of H.B. 4259.

Respectfully submitted,





DONALDSON
ADOPTION INSTITUTE

EVAN B. DONALDSON ADOPTION INSTITUTE

Expanding Resources for Children:

**Is Adoption by Gays and Lesbians Part of the Answer
for Boys and Girls Who Need Homes?**

Policy Perspective

March 2006

Funded by: The Gill Foundation and the Human Rights Campaign

Prepared by: The Evan B. Donaldson Adoption Institute

2006 © Evan B. Donaldson Adoption Institute
525 Broadway • 6th Floor • New York • NY • 10012
(212) 925-4089 • www.adoptioninstitute.org • info@adoptioninstitute.org



Executive Summary

It is a mantra of political rhetoric, a guiding principle of professional policy and practice, and an explicit goal of our nation's laws and practices: Every child deserves to live in a permanent, loving home. Yet tens of thousands of boys and girls remain mired in the foster care system, unable to return to their original families and without realistic prospects of being adopted.

At the same time, agencies and attorneys report the number of gay and lesbian adults expressing an interest in adopting these children is growing. This reality raises hopes among many child welfare professionals and policy-makers, who see a new pool of prospective parents for children who need them. But it also generates controversy and criticism among others, who are concerned about the consequences of permitting adoption into families headed by gay or lesbian parents.

In an effort to inform the debate, the Evan B. Donaldson Adoption Institute has conducted an extensive examination of the relevant issues, laws and practices, and available research spanning the last several decades. This effort – which represents one of the broadest, most thorough reviews and analyses to date on gay/lesbian adoption and parenting – is part of a larger, more detailed project that will be completed and released in several months. This paper, meanwhile, is intended as an overview that serves two principal functions: to inform and provide context for the often-fractious debate over gay/lesbian adoption currently taking place in our country; and, most important, to provide information that can be used to shape best practices that focus on providing boys and girls in the child welfare system with safe, committed and enduring families.

Principal findings

- Against a backdrop of increasing public acceptance, social science research concludes that children reared by gay and lesbian parents fare comparably to those of children raised by heterosexuals on a range of measures of social and psychological adjustment.
- Studies are increasing in number and rigor, but the body of research on gay/lesbian parents is relatively small and has methodological limitations. Still, virtually every valid study reaches the same conclusion: The children of gays and lesbians adjust positively and their families function well. The limited research on gay/lesbian adoption points in the same direction.
- Though few states have laws or policies explicitly barring homosexuals from adopting, some individual agencies and workers outside those states discriminate against gay and lesbian applicants based on their own biases or on mistaken beliefs that such prohibitions exist.
- Laws and policies that preclude adoption by gay or lesbian parents disadvantage the tens of thousands of children mired in the foster care system who need permanent, loving homes.

Background

Despite federal legislation and state initiatives aimed at getting more children out of foster care and doing so more quickly – and despite a surge in adoptions from the system during the last decade – the number of children in need of permanent families continues to be large. The latest available count, by the U.S. Children's Bureau for 2003, estimated there were 119,000 children awaiting adoption from the child welfare system, only 20,000 of whom were in pre-adoptive homes.

Many prospective parents are interested in adoption, but the significant majority of them are interested in adopting infants or young children without histories of maltreatment and without physical or mental disabilities. In short, the number of waiting children in foster care far exceeds the supply of parents seeking to adopt them. Achieving permanency, safety and well-being for these children requires creative policy and practice to expand the number of families available. In this context – and against the backdrop of changing cultural values – many, if not most, agencies nationwide have become increasingly amenable to gay and lesbian individuals and couples as one such resource.

However, the move to expanding the pool of adoptive parents in this way requires legal, organizational and attitudinal change. If child welfare professionals, children's advocates and policymakers wish to enlarge the pool of parental resources to include these parents, among the steps they should consider are:

Recommendations

- Move to end legal and de facto restrictions on adoption by gays and lesbians. This includes working to expand co-parent and second parent adoption, as well as revising agency policies and practices that may impede their consideration as an adoptive resource.
- Develop clear statements in support of such adoptions, recognizing a "don't ask, don't tell" approach disadvantages parents and, ultimately, their children. And develop contacts with the gay/lesbian community in order to engage in genuine, informed outreach.
- Help workers, supervisors, and agency leaders examine their attitudes and beliefs about gay and lesbian parenting, while affirming the value of these families by including them in outreach, training materials, and parent panels.
- Conduct research to inform the development of resources, training, and support to improve post-adoption success. And work to include and educate children in the process, recognizing that they may encounter prejudice if adopted by gay parents.

Conclusion

Based on both the available research and growing experience, adoption by gays and lesbians holds promise as an avenue for achieving permanency for many of the waiting children in foster care.

Policy Perspectives are research-based Adoption Institute publications that focus on important and timely issues in the field. This report was researched and written by Professor Jeanne Howard of Illinois State University, who is the Adoption Institute's Policy and Research Director. Special thanks to two of our Senior Fellows, Professor Scott Ryan of Florida State University and Professor David Brodzinsky of Rutgers University, for their valuable contributions. This Policy Perspective was edited by Executive Director Adam Pertman. Send questions and comments to info@adoptioninstitute.org.

All contents (c) 2006 by the Evan B. Donaldson Adoption Institute.